

Central Intelligence Agency



Washington, D.C. 20505

OLL 85-1244
23 April 1985

The Honorable George Bush
President of the Senate
Washington, D.C. 20510

Dear Mr. President:

This letter transmits for the consideration of the Congress a proposed "Intelligence Authorization Act for Fiscal Year 1986."

Sufficient resources are needed in Fiscal Year 1986 to continue the progress which the Executive and Legislative Branches have taken together toward revitalization of our nation's Intelligence Community. I am confident that the Congress will provide the resources needed to develop and maintain the intelligence capabilities required to protect the national security in today's increasingly complex world.

The proposed Intelligence Authorization Act is accompanied by a detailed section-by-section explanation. Timely consideration of the "Intelligence Authorization Act for Fiscal Year 1986" would be greatly appreciated. The Office of Management and Budget has advised that enactment of this proposed legislation would be in accordance with the President's program.

Sincerely,

A handwritten signature in dark ink, appearing to read "W. J. Casey", written over a circular stamp or seal.

William J. Casey
Director of Central Intelligence

Enclosure

A BILL

To authorize appropriations for fiscal year 1986 for intelligence and intelligence-related activities of the United States Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Intelligence Authorization Act for Fiscal Year 1986".

TITLE I - INTELLIGENCE ACTIVITIES

Authorization of Appropriations

SEC. 101. Funds are hereby authorized to be appropriated for fiscal year 1986 for the conduct of the intelligence and intelligence-related activities of the following elements of the United States Government:

- (1) The Central Intelligence Agency;
- (2) The Intelligence Community Staff;
- (3) The Department of Defense;
- (4) The Defense Intelligence Agency;
- (5) The National Security Agency;
- (6) The Department of the Army, the Department of the Navy, and the Department of the Air Force;
- (7) The Department of State;
- (8) The Department of the Treasury;
- (9) The Department of Energy;
- (10) The Federal Bureau of Investigation; and
- (11) The Drug Enforcement Administration.

Classified Schedule of Authorizations

SEC. 102. The amounts authorized to be appropriated under section 101, and the authorized personnel ceilings as of September 30, 1986, for the conduct of the intelligence and intelligence-related activities of the elements listed in such section, are those specified in the classified Schedule of Authorizations prepared by the committee of conference to accompany () of the Ninety-Ninth Congress. That Schedule of Authorizations shall be made available to the Committee on Appropriations of the Senate and House of

Representatives and to the President. The President shall provide for suitable distribution of the Schedule, or of appropriate portions of the Schedule within the Executive Branch.

Congressional Notification of Expenditures
in Excess of Program Authorizations

SEC. 103. During fiscal year 1986, funds may not be made available for any intelligence or intelligence-related activity unless such funds have been specifically authorized for such activity or, in the case of funds appropriated for a different activity, unless the Director of Central Intelligence or the Secretary of Defense has notified the appropriate committees of Congress of the intent to make such funds available for such activity, except that, in no case may reprogramming or transfer authority be used by the Director of Central Intelligence or the Secretary of Defense unless for higher priority intelligence or intelligence-related activities, based on unforeseen requirements, than those for which funds were originally authorized, and in no case where the intelligence or intelligence-related activity for which funds were requested has been denied by Congress.

Personnel Ceiling Adjustments

SEC. 104. The Director of Central Intelligence may authorize employment of civilian personnel in excess of the numbers authorized for the fiscal year 1986 under sections 102 and 202 of this Act when he determines that such action is necessary to the performance of important intelligence functions, except that such number may not, for any element of the Intelligence Community, exceed 2 per centum of the number of civilian personnel authorized under such sections for such element. The Director of Central Intelligence shall promptly notify the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate whenever he exercises the authority granted by this section.

TITLE II - INTELLIGENCE COMMUNITY STAFF

Authorization of Appropriations

SEC. 201. There is authorized to be appropriated for the Intelligence Community Staff for fiscal year 1986 the sum of \$21,900,000.

Authorization of Personnel End Strength

SEC. 202. The Intelligence Community Staff is authorized 233 full-time personnel as of September 30, 1986. Such personnel of the Intelligence Community Staff may be permanent employees of the Intelligence Community Staff or personnel detailed from other elements of the United States Government.

(b) During fiscal year 1986, personnel of the Intelligence Community Staff shall be selected so as to provide appropriate representation from elements of the United States Government engaged in intelligence and intelligence-related activities.

(c) During fiscal year 1986, any officer or employee of the United States or a member of the Armed Forces who is detailed to the Intelligence Community Staff from another element of the United States Government shall be detailed on a reimbursable basis, except that any such officer, employee or member may be detailed on a nonreimbursable basis for a period of less than one year for the performance of temporary functions as required by the Director of Central Intelligence.

Intelligence Community Staff Administered
in Same Manner as Central Intelligence Agency

SEC. 203. During fiscal year 1986, activities and personnel of the Intelligence Community Staff shall be subject to the provisions of the National Security Act of 1947 (50 U.S.C. 401 et seq.) and the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.) in the same manner as activities and personnel of the Central Intelligence Agency.

TITLE III - CENTRAL INTELLIGENCE AGENCY
RETIREMENT AND DISABILITY SYSTEM

Authorization of Appropriations

SEC. 301. There is authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 1986 the sum of \$101,400,000.

TITLE IV - ADMINISTRATIVE PROVISIONS RELATED
TO INTELLIGENCE AGENCIES

Compensation of Director and Deputy
Director of Central Intelligence

SEC. 401. (a) Section 5312 of Title 5, United States Code, is amended by adding at the end thereof the following:

"() Director of Central Intelligence."

(b) Section 5313 of Title 5, United States Code, is amended by inserting "Deputy" before "Director of Central Intelligence."

(c) Section 5314 of Title 5, United States Code, is amended by striking out "Deputy Director of Central Intelligence."

Interlocutory Appeal Authority

SEC. 402. The National Security Act of 1947 (50 U.S.C. 401 et seq.) is amended by adding after Section 102a the following new section:

"SEC. 102b. In any civil action, suit, or proceeding in which the United States or any officer, employee or agent thereof is a party, or in which the United States has an interest, an interlocutory appeal may be taken as of right from a decision of any court of the United States, or a judge thereof, on any evidentiary or discovery matters, or potentially dispositive motions, if the Director of Central Intelligence certifies that the decision will have an adverse impact upon the national security of the United States. In such cases, appeal may be taken upon application of the Attorney General to the appropriate courts of appeals, which shall have jurisdiction of appeals under this provision, except where direct review may be had in the Supreme Court. A stay of all proceedings shall be granted pending disposition of the appeals."

Retirement Benefits for Agency Employees Serving
in Unhealthful Areas

SEC. 403. Section 251 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note) is amended by inserting "(a)" after "Sec. 251." and by adding at the end thereof the following new subsection:

"(b) The Director of Central Intelligence may from time to time establish, in consultation with the Secretary of State, a list of places which by reason of climatic or other extreme conditions are to be classed as unhealthful posts. Each year of duty at such posts, inclusive of regular leaves of absence, shall be counted as one and a half years in computing the length of the service of a participant under this Act for the purpose of retirement, fractional months being considered as full months in computing such service. No such extra credit for service at such unhealthful posts shall be credited to any participant who is paid a differential under section 5925 or 5928 of Title 5 for such service."

Protection of Agency Activities

SEC. 404. (a) The Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.) is amended by adding at the end of Section 15 the following new section:

"SEC. 16. In its discretion, the Agency may, on the grounds of prior or current alcohol or drug abuse, deny to or remove from any individual access to classified information, refuse to hire any applicant for Agency employment, and terminate, suspend, or place limitations or conditions on the continued employment of any Agency employee, notwithstanding any other provisions of law."

(b) The National Security Agency Act of 1959 (50 U.S.C. 402 note) is amended:

"1) by redesignating section 2 as section 2(a) and

"2) by adding at the end thereof the following new subsection:

"b) The Secretary of Defense (or his designee for the purpose) may, in his discretion, on the grounds of prior or current alcohol or drug abuse, deny to or remove from any individual access to classified information, refuse to hire any applicant for Agency employment, and terminate, suspend, or place limitations or conditions on the continued employment of any Agency employee, notwithstanding any other provisions of law."

TITLE V - SUPPORT FOR DEFENSE INTELLIGENCE
COLLECTION ACTIVITIES

SEC. 501. Subtitle A of Title 10, United States Code, is amended by adding the following new chapter after Chapter 18:

"CHAPTER 19 - SUPPORT FOR INTELLIGENCE

SEC.

391. Purpose of this chapter.

392. Definition.

393. Authority to conduct commercial cover.

394. Authority to acquire logistic support, supplies, and services.

395. Oversight.

396. General Provisions.

SEC. 391. Purpose of this chapter.

The purpose of this chapter is to provide clear authority for the Secretary of Defense or the Secretaries of the Military Departments to conduct support activities necessary for authorized and appropriately coordinated intelligence collection activities of the Department of Defense.

SEC. 392. Definition.

a. "Intelligence collection activities" means the collection of foreign intelligence or counterintelligence information by intelligence components of the Department of Defense.

b. "Intelligence support activities" means those activities described in sections 393 and 394, below.

c. "Foreign Intelligence" means information relating to the capabilities, intentions, and activities of foreign powers, organizations, or persons, but not including counterintelligence except for information on international terrorist activities.

d. "Counterintelligence" means information gathered and activities conducted to protect against espionage, other intelligence activities, sabotage, or assassination conducted for or on behalf of foreign powers, organizations or persons, or international terrorist activities, but not including personnel, physical, document or communications security programs.

e. "Commercial cover" means a business entity that is established solely to conceal the role of an intelligence component of the Department of Defense as it performs intelligence collection activities.

SEC. 393. Authority to conduct commercial cover.

a. "The Secretary of Defense or the Secretaries of the Military Departments, after consultation with the Director of Central Intelligence and the Director of the Federal Bureau of Investigation as appropriate, may establish and conduct commercial entities such as corporations, partnerships, sole proprietaries, and other business entities as commercial covers to support intelligence collection activities of the Department of Defense, as defined herein. Such commercial entities may be established only upon written certification by the Secretary concerned that commercial cover is necessary to the conduct of authorized intelligence collection activities.

b. "The establishment and operation of commercial entities pursuant to this section shall be in accordance with prevailing commercial practices so long as such practices are not inconsistent with the purposes of commercial cover. To this end, laws applicable to federal appropriations, federal property management, federal acquisitions, federal employment and government corporations shall not apply to the establishment and operation of commercial covers upon the written certification by the Secretary concerned or his designee for the purpose that the application of such laws would risk the compromise of commercial cover.

c. "The Secretary of Defense or the Secretaries of the Military Departments, or their designees, are authorized to deposit and withdraw funds appropriated for the Department of Defense used to conduct commercial cover and funds generated by the business entities authorized by this section in banks or other financial institutions.

d. "Funds generated by such business entities may be used to offset necessary and reasonable expenses incurred by the commercial cover. As soon as practicable, funds generated by a commercial cover that are no longer necessary for the conduct of that commercial cover shall be deposited in the Treasury of the United States as miscellaneous receipts.

e. "Upon the liquidation, dissolution, sale, or other final disposition of a commercial cover established and conducted under the provisions of this section, the funds, after obligations are met, shall be deposited in the Treasury of the United States as miscellaneous receipts.

SEC. 394. Authority to acquire logistic support, supplies, and services.

a. "Subject to the availability of appropriations, the Secretary of Defense or the Secretaries of the Military Departments, or their designees, may acquire any goods, services, property, buildings, facilities, space, insurance, licenses and any equipment necessary in order to establish or maintain a commercial cover.

b. "Acquisitions made under the provisions of this section are to be made utilizing procedures consistent with prevailing commercial practice so long as such practices are not inconsistent with the purposes of the commercial cover. To this end, laws applicable to federal acquisitions, federal appropriations, federal property management, and federal employment shall not apply where the application of such laws would risk compromise of the commercial cover.

SEC. 395. Oversight.

"The Secretary of Defense shall establish a system to ensure oversight of and accountability for the intelligence support activities conducted pursuant to sections 393 and 394 of this title.

SEC. 396. General Provisions.

a. "The intelligence support activities authorized pursuant to sections 393 and 394 may be conducted only in accordance with regulations promulgated by the Secretary of Defense.

b. "The Secretary of Defense or Secretaries of the Military Departments shall ensure that elements of the Department of Defense that undertake intelligence support activities pursuant to this chapter conduct an annual review and audit of such support activities; and shall ensure that the House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence are kept fully and currently informed of such activities, as prescribed in section 413 of Title 50.

c. "Intelligence support activities authorized under this chapter shall be protected pursuant to 50 U.S.C. 403(d)(3).

d. "The table of chapters at the beginning of subtitle A of such title and at the beginning of Part I of such subtitle are each amended by inserting after the item relating to chapter 18 the following new item:

"19. Support for Intelligence.....391".

TITLE VI - MODIFICATION OF CERTAIN NATURALIZATION REQUIREMENTS

Immigration and Nationality Act Amendment

SEC. 601. Section 316 of the Immigration and Nationality Act (8 U.S.C. 1427) is amended by adding at the end thereof the following new subsection:

"(g)(1) Whenever the Director of Central Intelligence, the Attorney General and the Commissioner of Immigration determine that a petitioner otherwise eligible for naturalization has made a significant contribution to the national security or to the national intelligence mission, the petitioner may be naturalized without regard to the residence and physical presence requirements of this section, or to the prohibitions of Section 313 of this Act, and no residence within the jurisdiction of the court shall be required.

(2) A petition under this provision may be filed, without regard to the residence of the petitioner, in any district court of the United States. The court shall conduct proceedings under this subsection in a manner consistent with the protection of intelligence sources, methods and activities."

TITLE VII - GENERAL PROVISIONS

Authorization for Conduct of Intelligence Activities

SEC. 701. The authorization of appropriations by this Act shall not be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or laws of the United States.

INTELLIGENCE AUTHORIZATION ACT FOR
FISCAL YEAR 1986

SECTION-BY-SECTION ANALYSIS
AND EXPLANATION

TITLE I

INTELLIGENCE ACTIVITIES

Section 101 lists the departments, agencies, and other elements of the United States Government for whose intelligence and intelligence-related activities the Act authorizes appropriations for fiscal year 1986.

Section 102 makes clear that details of the amounts authorized to be appropriated for intelligence and intelligence-related activities and personnel ceilings covered under this title for fiscal year 1986 are contained in a classified Schedule of Authorizations. The Schedule of Authorizations is incorporated into the Act by this section.

Section 103 requires that no funds may be appropriated or otherwise made available through the exercise of transfer or reprogramming authority unless specifically authorized or accompanied by notification. It is understood that specifically authorized intelligence activities are those activities described in annual budget justification material as modified by the Congress. The notification requirement is not intended to apply to reprogrammings below agreed-to dollar thresholds, releases from authorized contingency funds, or to Economy Act transactions for specific activities otherwise authorized by law. Notification required under this provision is normally expected to be made at least fifteen days prior to completion of the funding transaction, but it is recognized that circumstances may occasionally require later notification.

Should questions arise as to the relationship between this section and section 501 of the National Security Act of 1947, it is expected that resolution will be guided by the principles of comity and mutual understanding set forth in the legislative history accompanying the statutory intelligence oversight provisions enacted in 1980.

Section 104 authorizes the Director of Central Intelligence in fiscal year 1986 to expand the personnel ceilings applicable to the components of the Intelligence Community under Sections 102 and 202 by an amount not to exceed 2 percent of the total of the ceilings applicable under these sections. The Director may exercise this authority only when necessary to the performance of important intelligence functions or to the maintenance of a stable personnel force, and any exercise of this authority must be reported to the two intelligence committees of the Congress.

TITLE II

INTELLIGENCE COMMUNITY STAFF

Section 201 authorizes appropriations in the amount of \$29,900,000 for the staffing and administration of the Intelligence Community Staff.

Section 202 provides details concerning the number and composition of Intelligence Community Staff personnel.

Subsection (a) authorizes 233 full-time personnel for the Intelligence Community Staff for fiscal year 1986, and provides that personnel of the Intelligence Community Staff may be permanent employees of the Staff or detailed from various elements of the United States Government.

Subsection (b) requires that detailed employees be selected so as to provide appropriate representation from the various departments and agencies engaged in intelligence and intelligence-related activities.

Subsection (c) requires that personnel be detailed on a reimbursable basis except for temporary situations.

Section 203 provides that the Director of Central Intelligence shall utilize existing statutory authority to manage the activities and to pay the personnel of the Intelligence Community Staff. This language reaffirms the statutory authority of the Director of Central Intelligence and clarifies the legal status of the Intelligence Community Staff. In the case of detailed personnel, it is understood that the authority of the Director of Central Intelligence to discharge personnel extends only to discharge from service at the Intelligence Community Staff and not from federal employment or military service.

TITLE III

CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

Section 301 authorizes fiscal year 1986 appropriations in the amount of \$101,400,000 for the Central Intelligence Agency Retirement and Disability Fund.

TITLE IV

ADMINISTRATIVE PROVISIONS RELATED TO
INTELLIGENCE AGENCIES

Section 401 adjusts the annual rates of basic pay for the positions of Director and Deputy Director of Central Intelligence. Section 5312 of Title 5, United States Code, currently lists fourteen (14) positions which have an annual rate of basic pay at Level I of the Executive Schedule. Subsection 401(a) would add the Director of Central Intelligence to the list. Section 5313 of Title 5, United States Code, sets forth those positions which have an annual rate of basic pay at Level II of the Executive Schedule. The Director of Central Intelligence is presently included in this listing. Subsection 401(b) would change the listed position of Director of Central Intelligence to Deputy Director of Central Intelligence. Given the addition of the Deputy Director of Central Intelligence to the Executive Schedule Level II position listed in Section 5313, it becomes necessary to amend Section 5314 of title 5, United States Code, to strike the Deputy Director of Central Intelligence from the positions listed as receiving an annual rate of basic pay at Level III of the Executive Schedule. Subsection 401(c) accomplishes this.

Section 402 amends the National Security Act of 1947 to permit an interlocutory appeal by the United States from any decision of a United States court or a judge thereof on any evidentiary ruling or dispositive motion when the Director of Central Intelligence certifies that the decision being appealed will have an adverse impact on the national security. Recently, the U. S. has encountered significant problems in attempting to perfect interlocutory appeals of several court decisions. The hallmark of these cases is an attempt by the plaintiffs to force the U. S. to submit to civil discovery and a trial on the merits, even though the Government's legal arguments would likely eliminate the need for discovery or further judicial proceedings if the issues could be litigated fully on appeal. Moreover, in those cases where the disclosure of sensitive national security information is directly at issue, the U. S. needs the ability to protect its information from any unnecessary risk of immediate disclosure. Under current law the U.S. may find that the only means of obtaining an immediate appeal to obtain a dispositive ruling is to consider a contempt of court. These problems can be resolved if the U.S. can obtain the right to interlocutory appeal upon a certification that the national security justifies it. It is

not intended, however, that the right established by this section in any way affect the role of the Attorney General in managing the litigation caseload of the United States.

Section 403 amends the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note) to provide an additional retirement credit in lieu of a post differential for service by Agency employees at unhealthful posts. Section 817 of the Foreign Service Act of 1980 (22 U.S.C. 4057) provides participants in the Foreign Service Retirement and Disability System with the ability to elect an extra credit towards retirement in lieu of a post differential for service at an unhealthful post. Because Agency employees serving overseas at unhealthful posts live under the same arduous conditions as State Department employees, the provision of this extra retirement credit to similarly situated Agency personnel is needed. While subsection 4(b) of the CIA Act of 1949 authorizes the DCI by regulation to provide Agency employees with benefits and allowances comparable to those paid to Foreign Service personnel, there is no indication in the legislative history that Congress considered Foreign Service retirement entitlements to be "allowances and benefits" within the meaning of this subsection. This proposal thus authorizes the DCI to designate from time to time, in consultation with the Department of State, a list of places which by reason of climatic or other extreme conditions are to be considered unhealthful posts. Section 403 permits Agency employees who are CIARDS participants in computing their length of service to elect to receive a retirement credit of one and a half years for each year of service at such posts in lieu of a post differential. This additional retirement credit is to be used only in computing a CIARDS participant's length of service under Section 251, and is not to be added to or considered in computing the 60-month period of qualifying service required before an employee can participate in CIARDS. Under Section 403, in computing an employee's length of service at an unhealthful post, fractional months are to be considered as full months and regular leaves of absence are to be included in this computation. These computation methods are identical to those contained in section 817 of the Foreign Service Act of 1980.

Section 404 amends the CIA Act of 1949 and the National Security Agency Act of 1959 to make clear that CIA and NSA can continue to deal with security problems in the area of drug and alcohol abuse without regard to the provisions of any other law, rule or regulation. Recent court decisions and rulings by both the Equal Employment Opportunity Commission and the Merit Systems Protection Board have suggested that there will be increasing emphasis on treating alcoholism and alcohol abuse as

a handicap protected under the provisions of the Rehabilitation Act, which outlaws handicap discrimination. By implication there will likely be a similar emphasis on treatment of drug abuse as a handicap with the same protection. This may very well result in an increased prospect of litigation whenever CIA or NSA determine that drug or alcohol abuse requires the denial or revocation of security approvals, or the denial or loss of employment. Not only is there concern about the prospects of having to litigate these decisions, but there also is a likelihood that CIA and NSA will be forced more and more to make accommodations to take into account these "handicaps," regardless of the security consequences of continuing to employ or clear such persons. In order to avoid these additional administrative and litigation problems, which could substantially impair the ability of CIA and NSA to carry out their national security missions and functions, this amendment would clearly authorize CIA and NSA to deal with the security implications of alcohol and drug abuse in the same manner as in the past.

TITLE V - SUPPORT FOR DEFENSE INTELLIGENCE COLLECTION ACTIVITIES

Section 501 adds a new chapter 19 to subtitle A of Title 10, United States Code, authorizing the establishment and conduct of corporations or other business entities to provide support for Department of Defense undercover intelligence collection activities.

Proposed subsection 391 states that the purpose of proposed chapter 19 is to clarify congressional intent with regard to the establishment of commercial covers to support intelligence collection activities.

Proposed subsection 392a defines a new term "intelligence collection activities". The use of a new term rather than the redefining of the term "intelligence activities" precludes the development of two definitions (E.O. 12333 & statutory) for the same term.

Proposed subsection 392b defines the term "intelligence support activities" to mean the establishment, acquisition and conduct of commercial cover systems and the acquisition of logistical support thereto as described in subsections 393 and 394.

Proposed subsection 392c defines one of the terms in subsection 392a, "foreign intelligence", as it is defined in E.O. 12333.

Proposed subsection 392d defines one of the terms used in subsection 392a, "counterintelligence", as it is defined in E.O. 12333.

Proposed subsection 392e defines a new term, "commercial cover", which is used throughout the proposed Chapter 19 of this title.

Proposed subsection 393a authorizes the Secretary of Defense or the Secretaries of the Military Departments to establish and conduct commercial covers as commercial entities. In making specific reference to consultation with the Director of Central Intelligence and the Director of the Federal Bureau of Investigation, this subsection is not intended in any way to alter or derogate from the responsibilities and authority of the Chief of Mission to a foreign country under 22 U.S.C. 3927 for direction, coordination, and supervision of all U.S. Government employees in that country (except for employees under the command of a U.S. area military commander) or from established procedures for coordination with the Secretary of State in the conduct of clandestine activities. Subsection 393a further states that the establishment of a commercial cover requires a finding in the form of a written certification by the Secretary responsible for the commercial entity that the commercial cover is necessary to the conduct of authorized intelligence collection activities.

Proposed subsection 393b requires that the establishment and operation of such commercial covers be in accordance with prevailing commercial practice. Federal statutes that regulate the establishment and operation of commercial and industrial type government activities shall not apply to the establishment and operation of commercial covers conducted pursuant to this section when there is a written certification by the Secretary concerned or his designee that compliance with such statutes would risk compromise of the commercial cover. It is not intended that the authorities contained in this section will relieve the Department of Defense from any requirements of applicable laws. Any exemptions apply only to the operations of the commercial cover. Commercial covers must of necessity conform to standard commercial practices. Compliance with statutory requirements that govern routine government procurement and financial transactions would not conform with such prevailing commercial practices and would flag a commercial cover entity as being connected with the U.S. Government, thus risking the security of the commercial cover and the underlying intelligence collection activities. In the past, Congress has exempted the FBI from certain procurement and financial requirements, e.g., the Anti-Deficiency Act, 31 U.S.C., 1341, and the Department of Defense is proposing that similar exemptions be authorized for intelligence support activities. It is virtually impossible to foresee and list by

citation every statutory requirement that may be incompatible with intelligence support activities. Therefore, subsection 393b describes the exemptions categorically in order to capture and embody all the provisions that would risk compromising the commercial cover. Such statutes encompass laws applicable to federal appropriations, federal property management, federal acquisitions, federal employment, and government corporations. These categories of law are defined below.

"Federal acquisitions" means acquiring real estate, goods or services for the U.S. Government. These activities are principally governed by Titles 41 and 10 of the United States Code. Title 41 requirements that may be incompatible with intelligence support activities include:

41 U.S.C. 5 which establishes the requirement to advertise proposed purchases and proposed contracts for supplies or services.

41 U.S.C. 35 which requires the inclusion of contract provisions such as the Walsh-Healey Act representations and stipulations.

41 U.S.C. 46 and 48c which establish the requirement to purchase blind-made products.

41 U.S.C. 255 which limits advance payments to contractors.

41 U.S.C. 253 which requires full and open competition.

Title 10 requirements that may be incompatible with intelligence support activities include:

10 U.S.C. 2207 which prohibits contracting unless the contract contains specific provisions.

10 U.S.C. 2276 which makes the contractor's books subject to Government audit.

10 U.S.C. 2301 which prohibits cost-plus-a-percentage-of-cost contracts. This section also subjects a commercial cover to small business set-asides. This may conflict with prevailing commercial practice.

10 U.S.C. 2304 which limits the use of negotiated procurements. Formal advertisement (sealed bids) may not be consistent with prevailing commercial practice.

10 U.S.C. 2306 which places restrictions on the kinds of contracting that may be used. These restrictions may conflict with prevailing commercial practice. This section also creates a right to examine all books, records, etc. of the contractor or subcontractor. This may also identify the intelligence support activity as a U.S. Government entity.

10 U.S.C. 2307 which prohibits certain advance payments for property and services. This may conflict with prevailing commercial practice.

10 U.S.C. 2313 which creates a right to inspect plants and audit books of certain contractors and subcontractors. Such an inspection would identify the contracting agency as a U.S. Government entity.

10 U.S.C. 2360 which creates a right for students contracting with the Government to be entitled to be considered as employees which may identify the contracting agency as a U.S. Government entity.

10 U.S.C. 2381 which requires certain measures for non-negotiated procurements which will identify the contracting agency as a U.S. Government entity (surety bonds, charges, etc.).

10 U.S.C. 2384 which requires supplies furnished to a military department to be uniquely marked, which will identify the contracting agency as a U.S. Government entity.

10 U.S.C. 2631 which restricts transportation of supplies to U.S. Flag Vessels. This may conflict with prevailing commercial practice.

"Federal property management" means the control and use of federal real and personal property. These activities are principally governed by Titles 40 and 10 of the United States Code. Restrictions that may be incompatible with commercial covers include:

40 U.S.C. 34 which limits the leasing of space in the District of Columbia.

40 U.S.C. 33a which establishes restrictions on construction loans for office buildings by Government corporations.

40 U.S.C. 129 which establishes limits on a Government corporation's leasing of buildings in addition to the limitation on rental rates and prohibits the inclusion, in any lease, of any provision regarding the repair of real property.

10 U.S.C. 2662 which requires reporting of certain real estate transactions to Congress 30 days in advance of the transaction.

10 U.S.C. 2672 restricts agency authority to acquire an interest in land to \$100,000 or less.

10 U.S.C. 2676 limits authority to acquire land unless acquisition is expressly authorized by law.

"Federal employment" means restrictions, rights, duties, and entitlements flowing from Part III of Title 5 of the United States Code. The intent of this section is to exclude from the application of Title 5, U.S.C., employees of the commercial cover who are not federal employees occupying positions within the commercial cover. The restrictions, rights, duties, and entitlements that may be incompatible with prevailing commercial practices include:

5 U.S.C. 3101 et seq. which limits the authority to appoint employees.

5 U.S.C. 5101 et seq. which establishes classes of employees and prescribes levels of pay for those classes.

5 U.S.C. 4101 et seq. which establishes training programs.

5 U.S.C. 4301 et seq. which establishes a performance rating system for employees, including minimum due process.

5 U.S.C. 6101 et seq. which establishes a leave and attendance system.

5 U.S.C. 7101 et seq. which establishes a system for adverse actions, including removal.

5 U.S.C. 8101 et seq. which provides for insurance and other entitlements.

"Government Corporations" means a corporation that is owned by the Federal Government. While commercial covers are not Government corporations in the classical sense, they nonetheless meet definitions set out in 31 U.S.C. 9101(1). Government corporations are principally governed by Title 31 of the United States Code. Requirements that pertain to Government corporations that may be incompatible with commercial covers include:

31 U.S.C. 9102 which requires that each corporation established or acquired by an agency be specifically authorized by Congress.

31 U.S.C. 9103 which requires an annual budget submission to Congress.

31 U.S.C. 9107 which requires Comptroller General's approval prior to the consolidation of a corporation's cash.

31 U.S.C. 9108 which limits the obligations that may be issued by a Government corporation.

It is intended that commercial covers utilize these exemptions only to the extent that it is necessary, and that they be conducted in a manner that is generally consistent with ordinary commercial practice. Adequate safeguards are provided in the legislation and the Department's own procedures will further ensure the proper application of the exemptions and the appropriate use of funds.

Subsection 393c authorizes the deposit and withdrawal of appropriated and generated funds in banks and other financial institutions.

Subsection 393d requires that all proceeds generated by a commercial cover that are no longer necessary to offset necessary and reasonable expenses of the commercial cover, revert to the U.S. Treasury as miscellaneous receipts.

Subsection 393e requires that funds resulting from a final disposition of a commercial cover, after all obligations have been met, shall be deposited in the U.S. Treasury as miscellaneous receipts.

Proposed subsection 394a grants to the Secretary of Defense or the Secretaries of the Military Departments, or their designees, the authority to acquire necessary services, personalty, fixtures, and realty in order to support a commercial cover.

Proposed subsection 394b requires that acquisitions made pursuant to subsection 394a utilize procedures that are consistent with prevailing commercial practice. The subsection further provides that such acquisitions shall be exempt from laws governing federal acquisitions, federal appropriations, federal property management, and federal employment where the application of such laws would risk the compromise of the commercial cover. It is not intended that the authorities contained in this section will relieve the Department of Defense from any requirements of applicable laws. Any exemptions apply only to the operations of the commercial cover. For a discussion of these laws see the analysis above pertaining to proposed subsection 393b.

Proposed section 395 requires the establishment of a system whereby the Secretary of Defense is responsible for ensuring adequate oversight and accountability for all intelligence support activities undertaken pursuant to this chapter.

Proposed subsection 396a requires all intelligence support activities authorized pursuant to proposed sections 393 and 394 to be undertaken in accordance with regulations promulgated by the Secretary of Defense.

Proposed subsection 396b requires the Secretary of Defense, or the Secretaries of the Military Departments to ensure that an annual review and audit is conducted of each intelligence support activity. It further requires that the House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence be kept fully and currently informed of all intelligence support activities.

Proposed subsection 396c makes it clear that all intelligence support activities undertaken pursuant to this chapter are to be protected from unauthorized disclosure as set forth in 50 U.S.C. 403(d) (3).

TITLE VI - MODIFICATION OF CERTAIN NATURALIZATION REQUIREMENTS

Section 601 amends section 316 of the Immigration and Nationality Act (8 U.S.C. 1427) to improve the ability of the United States to obtain foreign intelligence from sources abroad by authorizing the waiver of three requirements for naturalization for certain persons who have made significant contributions to the national security or to the national intelligence mission. The requirements are general residency and physical presence, the requirements imposed on members of certain organizations, and the requirement that the naturalization petition be filed in the court which has jurisdiction over the petitioner's place of residence.

Congress has established a number of conditions on the granting of United States citizenship. These are set forth in Chapter 2 of Title III of the Immigration and Nationality Act, 8 U.S.C. 1421 et seq. The Congress has recognized, however, that when necessary to other governmental interests, certain of these requirements should be reduced or waived entirely. Unfortunately, there remain some requirements of the Immigration and Nationality Act which prevent complete recognition of significant contributions to the national security or to the national intelligence mission, and limit the ability of the United States to recruit potential foreign intelligence sources. The proposed amendment seeks to remedy this situation by addressing three requirements which currently stand in the way of expeditious naturalization of individuals making such contributions. Under the proposed amendment, waivers would be authorized in recognition of outstanding contributions to the United States and of the fact that the character and quality of service to the United States by certain individuals demonstrates that there is no need for them to serve a probationary period of residence to prove their fitness for citizenship.

The waivers authorized by proposed subsection (b) are limited in nature. They would become operative only after the requisite finding by the Director of Central Intelligence (DCI), the Attorney General (AG), and the Commissioner of the Immigration and Naturalization Service (INS). Waivers would be authorized only for three very specific requirements for naturalization. Individuals granted such waivers would have to comply with all other naturalization requirements.

Residence and Physical Presence

Section 316 of the Immigration and Nationality Act sets forth the residency and physical presence requirements which must be met by a petitioner. The establishment of these residency requirements reflects a determination by the Congress that such probationary periods are necessary in order for a petitioner to demonstrate his fitness for citizenship. Nevertheless, the Congress has also determined that for certain classes of petitioners these requirements are neither necessary nor appropriate. Thus, the Congress had determined that in certain cases the service which an individual has rendered to the United States demonstrates his fitness to become a citizen and merits expedited consideration. Among the classes of persons afforded such special treatment under the Immigration and Nationality Act in recognition of their service to the United States are: Individuals employed overseas by the United States Government, an American corporation engaged in the development of foreign trade or commerce, or, an American institution of research (§316(b)); employees of the United States Government employed abroad (§316(c)); merchant seamen on United States flag ships (§330), and; persons who have served in the Armed Forces of the United States (§328 and 329).

It also is clear that one of the classes of persons which the Congress has determined merits special consideration under the immigration and naturalization laws for their service to the United States are persons who have contributed to the national security. This determination is embodied in section 7 of the Central Intelligence Agency Act of 1949, 50 U.S.C. 403h. Section 7 permits the admission of a limited number of persons to permanent resident alien status notwithstanding their inadmissibility under the immigration laws if the DCI, AG, and the Commissioner of INS determine that such admission would be "in the interest of national security or essential to the furtherance of the national intelligence mission."

The Congress also has recognized that there must be some flexibility concerning naturalization of such persons. Accordingly, in subsection (c) of section 316 of the Immigration and Nationality Act, the Congress has seen fit to relax certain residency requirements for the naturalization of persons who are employed by or contractors of the Central Intelligence Agency. In the case of Victor Ivanovich Belenko,

the Soviet Air Force pilot who defected to the West, the Congress saw fit to waive the residency requirements for naturalization as well as the impediments to naturalization imposed by Mr. Belenko's prior membership in the Communist Party and the requirement as to the place of filing his petition. (Private Law 96-62; see Senate Report 96-963).

Given the importance of expedited naturalization for individuals, not citizens of the United States, who are in a position to make significant contributions to the national intelligence mission, this provision will provide the United States with an ability to offer such an inducement to potential foreign intelligence sources abroad. In virtually all these cases at present, such expeditious action is foreclosed by the requirements of Section 316.

The delay which these individuals must face in complying with existing law is often a serious blow to their aspirations of becoming full fledged members of the American community. Current law eliminates an opportunity to stimulate future contributions to our national security by those who might be encouraged to cooperate with us on account of the availability of a smooth and swift transition to United States citizenship.

It is possible to overcome these problems through the enactment of private bills, as in the Belenko case. Obtaining a private bill, however, entails explaining the individual's contribution and why it merits expeditious naturalization. This is often impossible, because in many cases even the slightest publicity would jeopardize the individual's security and could diminish the value of his contribution to the intelligence mission. This is particularly true when the United States is taking affirmative measures to conceal an individual's identity or the nature of his contribution to the intelligence mission.

Proposed subsection (g)(1) establishes a systematic method of recognizing the importance of services rendered to the United States by certain individuals by permitting the Director of Central Intelligence, the Attorney General and Commissioner to waive the residency and physical presence requirements of section 316 in appropriate cases. This waiver will recognize the contributions of these individuals by allowing them to petition immediately for naturalization without having to endure an unnecessary probationary period. The individuals who would benefit from the proposed waiver authority would already have demonstrated their fitness to become citizens and their commitment to the United States.

Proposed subsection (g)(1) is consistent with the existing structure of the naturalization laws, which already permit the waiver of these requirements for other classes of individuals

who have rendered special service to the United States. Further, it builds upon the Congressional recognition, embodied in Section 7 of the Central Intelligence Agency Act of 1949, subsection (c) of Section 316, and the Belenko legislation, that the requirements of the immigration and nationality laws should be flexible in application to persons who make a substantial contribution to the national intelligence mission.

Membership in Prohibited Organizations

Section 313 of the Immigration and Nationality Act, 8 U.S.C. 1424, prohibits the naturalization of individuals who are members of certain prohibited organizations or who espouse certain political ideologies. Its principal thrust is directed against persons who are members of the Communist Party in any of its various manifestations worldwide, in effect barring them from naturalization.

Subsection 313(c), however, provides an exception to this general exclusion. It permits petitioners who otherwise would be barred by Section 313 to petition for naturalization provided that, at the time of petitioning, more than ten years have elapsed since termination of their membership in the prohibited organization. This is, in effect, a ten year probationary period for former members of the Communist Party, during which they must demonstrate that they have shed their attachment to the Party, its principles and goals, and are otherwise fit for citizenship.

Section 313 imposes some special difficulties vis-a-vis the national intelligence mission in that some of the most important contributions to that mission are made by individuals who were members of the Communist Party. Indeed, their ability to contribute to this mission is normally enhanced by their Communist Party membership. Proposed subsection (g)(1) would permit waiver of this ten year bar for persons who have made significant contributions to the national intelligence mission.

As with the residency requirements of Section 316, the probationary period established by Section 313(c) is not needed in the case of these individuals. By their service to the national intelligence mission, they have demonstrated, usually at the risk of their lives, that they have effectively foresworn Communism and are fit candidates for United States citizenship. They need no probationary period to prove that fitness.

Residence Within the Jurisdiction

Section 316(a) of the Immigration and Nationality Act, 8 U.S.C. 1427(a), taken together with other sections of that Act, requires a petitioner to file his petition for naturalization in the court which has jurisdiction over his place of residence. In effect, this means that the petitioner must file in the State in which he spends the last six months of required State residency.

A waiver of the physical presence and residency requirements of Section 316 also necessitates a waiver of this procedural requirement. Petitioners benefiting from a waiver of the physical presence and residency requirements most likely will not have a permanent place of residence at the time of filing their petitions; hence, there will be no court with jurisdiction over the place of residence. Section 328 of the Immigration and Nationality Act is illustrative in this regard. In Section 328 the Congress has seen fit to waive the physical presence and residency requirements on the basis of service in the armed forces, and the requirement for residence within the jurisdiction is waived as well.

A waiver of the Section 316(a) requirement for individuals who have made significant contributions to the national intelligence mission also follows from the circumstances of individuals involved. Not only might they lack established residences, but it may be advisable for the United States, for reasons of security, to have the petition filed at a particular location.

Proceedings under this Subsection

Subsection (g)(2), together with the last sentence of subsection (g)(1), make it clear that a naturalization petition which arises under this section may be filed in any district court. Subsection (g)(2) also mandates that the naturalization proceeding be conducted so as to insure the protection of intelligence sources and methods from unauthorized disclosure.

As noted above, the petitioner in such cases often has not had the opportunity to establish residency in a particular location in the United States. In addition, security concerns and the interests of the government may require that the individual reside in a particular place or not reside in other places. Accordingly, subsection (g)(2) provides that a naturalization petition in such cases can be filed in any district court in the United States, and that such petitions are to be accepted for adjudication by the court in which they are filed.

Information involved in such naturalization proceedings will, by definition, be quite sensitive and revealing of the national intelligence mission. All information necessary to the adjudication of the petition, must, of course, be presented to the court. Yet, at the same time, information concerning intelligence sources and methods must be protected from unauthorized disclosure. No particular procedure is required. It instead is left to the discretion of the court and the

government to insure that appropriate procedures, e.g., sealing of the record, are utilized.

Conclusion

In sum, the proposed amendment is needed to enhance the ability of the United States to collect information from and recruit foreign intelligence sources and is warranted as a recognition of the significant contributions made by certain individuals to the national intelligence mission. It is narrowly drawn, building upon previous legislative enactments in the area of intersection between the national intelligence mission and the immigration and nationality laws.

TITLE VII

GENERAL PROVISIONS

Section 701 makes clear that, with the exception of any specific legislative authorities which may be contained in the Intelligence Authorization Act for Fiscal Year 1986, the Act is intended only to authorize appropriations and does not constitute authority for the conduct of any intelligence activity prohibited by the Constitution or laws of the United States.

INTELLIGENCE AUTHORIZATION ACT
FOR FISCAL YEAR 1986

COST ANALYSIS

TITLE I

INTELLIGENCE ACTIVITIES

Section 101: Fiscal Year 1986 authorizations are contained in the Classified Schedule of Authorizations.

Section 102: Cost analysis not applicable.

Section 103: Cost analysis not applicable.

Section 104: Cost contingent upon exercise of permissive authority.

TITLE II

INTELLIGENCE COMMUNITY STAFF

Section 201: The fiscal year 1986 authorization is \$29,900,000.

Section 202: Cost analysis not applicable.

Section 203: Cost analysis not applicable.

TITLE III

CENTRAL INTELLIGENCE AGENCY
RETIREMENT AND DISABILITY SYSTEM

Section 301: The fiscal year 1986 authorization is \$101,400,000.

TITLE IV

ADMINISTRATIVE PROVISIONS RELATED TO INTELLIGENCE AGENCIES

Subsection 401: (a) Would result in a cost of \$11,100 per annum, representing the current difference between the annual rate of basic pay payable for positions listed at Level I of the Executive Schedule and those listed at Level II.

Subsection 401: (b) Would result in a cost of \$1,500 per annum, representing the current difference between the annual rate of basic pay payable for positions listed at Level II of the Executive Schedule and those listed at Level III.

Subsection 401: (c) Cost analysis not applicable.

Section 402: Cost analysis not applicable.

Section 403: Cost analysis impossible to determine.

Section 404: Cost analysis not applicable.

TITLE V

SUPPORT FOR DEFENSE INTELLIGENCE ACTIVITIES

Section 501: Enactment of this legislation should not result in any additional cost to the Department of Defense or the Federal Government.

TITLE VI

MODIFICATION OF CERTAIN NATURALIZATION REQUIREMENTS

Section 601: Cost analysis not applicable.

TITLE VII

GENERAL PROVISIONS

Section 701: Cost analysis not applicable.

INTELLIGENCE AUTHORIZATION ACT FOR
FISCAL YEAR 1986

CHANGES IN EXISTING LAW

NOTE: Where applicable, changes in existing law are shown as follows: existing law in which no change is proposed is shown in roman; existing law proposed to be struck is enclosed in brackets; new material is underscored.

TITLE I

INTELLIGENCE ACTIVITIES

Section 101: No substantive change.

Section 102: No substantive change.

Section 103: No substantive change from Section 103 of the fiscal year 1985 Act.

Section 104: No substantive change from Section 106 of the fiscal year 1985 Act.

TITLE II

INTELLIGENCE COMMUNITY STAFF

Section 201: No substantive change.

Section 202: No substantive change.

Section 203: No substantive change.

TITLE III

CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

Section 301: No substantive change.

TITLE IV

ADMINISTRATIVE PROVISIONS RELATED TO
INTELLIGENCE AGENCIES

Section 401: Amends title 5, United States Code, as follows:

5 U.S.C. 5312

* * * * *

Director of Central Intelligence.

5 U.S.C. 5313

* * * * *

Deputy Director of Central Intelligence.

5 U.S.C. 5314

* * * * *

[Deputy Director of Central Intelligence.]

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Section 402: Amends the National Security Act of 1947 (50 U.S.C. 401 et seq.) by adding at the end of section 102a the following new section:

"SEC. 102b. In any civil action, suit, or proceeding in which the United States or any officer, employee or agent thereof is a party, or in which the United States has an interest, an interlocutory appeal may be taken as of right from a decision of any court of the United States, or a judge thereof, on any evidentiary or discovery matters, or potentially dispositive motions, if the Director of Central Intelligence certifies that the decision will have an adverse impact upon the national security of the United States. In such cases, appeal may be taken upon application of the Attorney General to the appropriate courts of appeals, which shall have jurisdiction of appeals under this provision, except where direct review may be had in the Supreme Court. A stay of all proceedings shall be granted pending disposition of the appeals."

Section 403: Amends section 251 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note) by inserting "(a)" after "Sec. 251." and adding at the end thereof the following new subsection:

"(b) The Director of Central Intelligence may from time to time establish, in consultation with the Department of State, a list of places which by reason of climatic or other extreme conditions are to be classed as unhealthful posts. Each year of duty at such posts, inclusive of regular leaves of absence, shall be counted as one and a half years in computing the length of the service of a participant under this Act for the purpose of retirement, fractional months being considered as full months in computing such service. No such extra credit for service at such unhealthful posts shall be credited to any participant who is paid a differential under section 5925 or 5928 or Title 5 for such service."

Section 404: (a) Amends the Central Intelligence Act of 1949 (50 U.S.C. 403a et seq.) by adding at the end of Section 15 the following new section:

"SEC. 16. In its discretion, the Agency may, on the grounds of prior or current alcohol or drug abuse, deny to or remove from any individual access to classified information, refuse to hire any applicant for Agency employment, and terminate, suspend, or place limitations or conditions on the continued employment of any Agency employee, notwithstanding any other provisions of law."

(b) Amends the National Security Agency Act of 1959 (50 U.S.C. 402 note):

"1) by redesignating section 2 as section 2(a) and

"2) by adding at the end thereof the following new subsection:

"b) The Secretary of Defense (Or his designee for the purpose) may, in his discretion, on the grounds of prior or current alcohol or drug abuse, deny to or remove from any individual access to classified information, refuse to hire any applicant for Agency employment, and terminate, suspend, or place limitations or conditions on the continued employment of any Agency employee, notwithstanding any other provisions of law."

TITLE V

SUPPORT FOR DEFENSE INTELLIGENCE COLLECTION ACTIVITIES

Section 501: Subtitle(a) of Title 10, United States Code, is amended by adding the following new chapter after Chapter 18:

"CHAPTER 19 - SUPPORT FOR INTELLIGENCE

SEC.

391. Purpose of this chapter.

392. Definition.

393. Authority to conduct commercial cover.

394. Authority to acquire logistic support, supplies, and services.

395. Oversight.

396. General Provisions.

SEC. 391. Purpose of this chapter.

"The purpose of this chapter is to provide clear authority for the Secretary of Defense or the Secretaries of the Military Departments to conduct support activities necessary for authorized and appropriately coordinated intelligence collection activities of the Department of Defense.

SEC. 392. Definition.

a. "Intelligence collection activities" means the collection of foreign intelligence or counterintelligence information by intelligence components of the Department of Defense.

b. "Intelligence support activities" means those activities described in sections 393 and 394, below.

c. "Foreign intelligence" means information relating to the capabilities, intentions, and activities of foreign powers, organizations, or persons, but not including counterintelligence except for information on international terrorist activities.

d. "Counterintelligence" means information gathered and activities conducted to protect against espionage, other intelligence activities, sabotage, or assassination conducted for or on behalf of foreign powers, organizations or persons, or international terrorist activities, but not including personnel, physical, document or communications security programs.

e. "Commercial cover" means a business entity that is established solely to conceal the role of an intelligence component of the Department of Defense as it performs intelligence collection activities.

SEC. 393. Authority to conduct commercial cover.

a. "The Secretary of Defense or the Secretaries of the Military Departments, after consultation with the Director of Central Intelligence and the Director of the Federal Bureau of Investigation as appropriate, may establish and conduct commercial entities such as corporations, partnerships, sole proprietaries, and other business entities as commercial covers to support intelligence collection activities of the Department of Defense, as defined herein. Such commercial entities may be established only upon written certification by the Secretary concerned that commercial cover is necessary to the conduct of authorized intelligence collection activities.

b. "The establishment and operation of commercial entities pursuant to this section shall be in accordance with prevailing commercial practices so long as such practices are not inconsistent with the purposes of commercial cover. To this end, laws applicable to federal appropriations, federal property management, federal acquisitions, federal employment and government corporations shall not apply to the establishment and operation of commercial covers upon the written certification by the Secretary concerned or his designee for the purpose that the application of such laws would risk the compromise of commercial cover.

c. "The Secretary of Defense or the Secretaries of the Military Departments, or their designees, are authorized to deposit and withdraw funds appropriated for the Department of Defense used to conduct commercial cover and funds generated by the business entities authorized by this section in banks or other financial institutions.

d. "Funds generated by such business entities may be used to offset necessary and reasonable expenses incurred by the commercial cover. As soon as practicable, funds generated by a commercial cover that are no longer necessary for the conduct of that commercial cover shall be deposited in the Treasury of the United States as miscellaneous receipts.

e. "Upon the liquidation, dissolution, sale, or other final disposition of a commercial cover established and conducted under the provisions of this section, the funds, after obligations are met, shall be deposited in the Treasury of the United States as miscellaneous receipts.

SEC. 394. Authority to acquire logistic support, supplies, and services.

a. "Subject to the availability of appropriations, the Secretary of Defense or the Secretaries of the Military Departments, or their designees, may acquire any goods, services, property, buildings, facilities, space, insurance, licenses and any equipment necessary in order to establish or maintain a commercial cover.

b. "Acquisitions made under the provisions of this section are to be made utilizing procedures consistent with prevailing commercial practice so long as such practices are not inconsistent with the purposes of the commercial cover. To this end, laws applicable to federal acquisitions, federal appropriations, federal property management, and federal employment shall not apply where the application of such laws would risk compromise of the commercial cover.

SEC. 395. Oversight.

"The Secretary of Defense shall establish a system to ensure oversight of and accountability for the intelligence support activities conducted pursuant to sections 393 and 394 of this title.

SEC. 396. General Provisions.

a. "The intelligence support activities authorized pursuant to sections 393 and 394 may be conducted only in accordance with regulations promulgated by the Secretary of Defense.

b. "The Secretary of Defense, or Secretaries of the Military Departments shall ensure that elements of the Department of Defense that undertake intelligence support activities pursuant to this chapter conduct an annual review and audit of such support activities and shall ensure that the House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence are kept fully and currently informed of such activities, as prescribed in section 413 of Title 50.

c. "Intelligence support activities authorized under this chapter shall be protected pursuant to 50 U.S.C. 403(d)(3).

d. "The table of chapters at the beginning of subtitle A of such title and at the beginning of Part I of such subtitle are each amended by inserting after the item relating to chapter 18 the following new item:

"19. Support for Intelligence.....391".

TITLE VI - MODIFICATION OF CERTAIN NATURALIZATION REQUIREMENTS

Section 601: Amends section 316 of the Immigration and Nationality Act (8 U.S.C. 1427) by adding at the end thereof the following new subsection:

"(g)(1) Whenever the Director of Central Intelligence, the Attorney General, and the Commissioner of Immigration determine that a petitioner otherwise eligible for naturalization has made a significant contribution to the national security or to the national intelligence mission, the petitioner may be naturalized without regard to the residence and physical presence requirements of this section, or to the prohibitions of Section 313 of this Act, and no residence within the jurisdiction of the court shall be required.

(2) A petition under this provision may be filed without regard to the residence of the petitioner in any district court of the United States. The court shall conduct proceedings under this subsection in a manner consistent with the protection of intelligence sources, methods and activities."

TITLE VII

GENERAL PROVISIONS

Section 701: No substantive change.